

REMARKS

The Examiner's Action mailed on April 15, 2005, has been received and its contents carefully considered.

In this Amendment, Applicant has editorially amended the specification, and added claims 4-6. Claims 4-6 correspond essentially to original claims 1-3, but are drafted in a different format. Claims 1 and 4 are the independent claims, and claims 1-6 are pending in the application. For at least the following reasons, it is submitted that this application is in condition for allowance.

The Examiner has objected to the disclosure for an informality. In response thereto, the disclosure has been editorially amended to correct the informality specifically pointed out by the Examiner's Action, and to correct other informalities noted during the review. It is requested that this objection be withdrawn.

The Examiner's Action has rejected claims 1 and 2 as being obvious over *Kinnee et al.* (USP 5,398,342) in view of *Wilder et al.* (USP 6,122,769). It is submitted that these claims are *prima facie* patentably distinguishable over the cited combination of references for at least the following reasons.

Applicant's independent claim 1 is directed to a baseball glove which includes a gusset that is made of a ventilative material which is sewn between two contiguous fingers of a shell back and a shell palm. The advantages of this claimed configuration are discussed in Applicant's specification, for example, page

2, line 13 through page 3, line 5. This claimed configuration is neither disclosed nor suggested by the cited references.

Kinnee et al. is directed to an air management baseball glove. This reference discloses that the baseball glove includes front and back panels which are joined together by stitching substantially along a major portion of a perimeter of the panels, and leaving a pocket for receiving a hand. This reference also discloses that a plurality of finger sections 18, 20, 22 and 24 are defined by the panels 12 and 14. This reference also discloses that a pad 40 is disposed between inner and outer plies 36, and 38 of the front panel 12. The pad is for absorbing the force of an impact of a ball striking the glove.

The Examiner's Action asserts that this reference discloses a gusset being formed between two contiguous fingers of the shell back and the shell palm. However, the Examiner's Action has not pointed out which feature constitutes this gusset. In fact, Applicant has thoroughly studied this reference, and has not been able to find any disclosure or suggestion therein that this reference teaches the use of gussets at all, much less a gusset being sewn between two contiguous fingers of a shell back and a shell palm. Moreover, since this reference does not disclose or suggest a gusset, this reference likewise can not disclose or suggest a gusset made of a ventilative material.

The Examiner's Action acknowledges that *Kinnee et al.* do not disclose a gusset being formed of a ventilative material and relies on the teaching of *Wilder et al.* to overcome this deficiency. The Examiner's Action states that it would have

been obvious to have modified the finger gussets of *Kinnee et al.* with the ventilative material as taught by *Wilder et al.* for the reasons discussed on page 3 of the Action. However, since *Kinnee et al.* do not disclose or suggest gussets, the motivation for the Examiner's proposed modification is flawed. That is, why would one skilled in the art have modified the gussets of *Kinnee et al.* when, in fact, *Kinnee et al.* do not even disclose such gussets? Moreover, the gussets disclosed by *Wilder et al.* are utilized in a hockey glove, and it is not clear from this reference that these gussets are sewn into position between two contiguous fingers of a shell back and two contiguous fingers of a shell palm, as recited by claim 1.

Moreover, it is also noted that the gussets disclosed by this reference are primarily comprised of leather or another natural material selected for its softness and durability. There is no disclosure or suggestion from this reference that these gussets can be instead formed of a material such as Neoprene, as recited by claim 2. Instead, in order to gain any sort of ventilative properties, the finger gussets must be provided with holes 32 for ventilation (see column 3, second paragraph). As such, it is submitted that the Examiner's Action has failed to establish a *prima facie* case of obviousness against independent claim 1 and dependent claim 2, and it is thus requested that these claims be allowed and that this rejection be withdrawn.

The Examiner's Action has also rejected claim 3 as being obvious over *Kinnee et al.* in view of *Wilder et al.*, and further in view of *Sundberg* (USP

4,244,692). Because *Sundberg* does not overcome the above noted deficiencies of *Kinnee et al.* and *Wilder et al.*, it is submitted that dependent claim 3 is *prima facie* patentably distinguishable over the cited combination of references for reasons similar to those presented above with respect to independent claim 1, as well as for the additional features recited therein. It is requested that this claim be allowed and that this rejection be withdrawn.

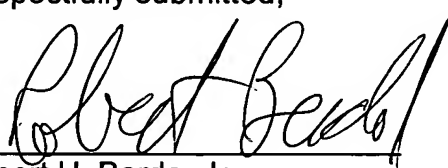
Applicant has also added claims 4-6, which are likewise believed to be allowable over the art of record.

It is submitted that this application is in condition for allowance. Such action and the passing of this case to issue are requested.

Should the Examiner feel that a conference would help to expedite the prosecution of this application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Should any fee be required, the Commissioner is hereby authorized to charge the fee to our Deposit Account No. 18-0002, and advise us accordingly.

Respectfully submitted,



Robert H. Berdo, Jr.
Registration No. 38,075
RABIN & BERDO, PC
Customer No. 23995
Telephone: 202-371-8976
Facsimile: 202-408-0924

July 15, 2005
Date

RHB:vm

AMENDMENT
Filed July 15, 2005

10/734,637